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ATTORNEY FOR DEFENDANT MICHAEL BOWMAN

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

UNITED STATES OF AMERICA,
Plaintiff,

Case No. 3:17-CR-00068-MO

vs.

**DECLARATION OF
MATTHEW SCHINDLER IN
SUPPORT OF MOTION TO
CONTINUE TRIAL DATE**

MICHAEL BOWMAN,
Defendant.

The undersigned, as counsel for Michael Bowman, does swear under penalty of perjury that the following is true:

1. The court appointed me to represent Mr. Bowman pursuant to the CJA on March 14, 2017. The Federal Public defender was unable to represent Mr. Bowman because of a conflict.
2. He has been released.
3. Trial in this matter is currently set for February 19, 2019.
4. Mr. Bowman was initially indicted on February 23, 2017. He was charged with a single count of felony tax evasion in violation of 26 USC § 7201 covering the 1999, 2000, 2001, 2008, and 2009 tax years. He was also

charged with five counts of willful failure to file returns under 26 USC §7201 for the 2010-2014 tax years. He made his first appearance on February 24, 2017 and the federal public defender's office was appointed to represent him. March 13, 2017 the federal public defender's office discovered a conflict and I was appointed successor counsel.

5. On October 9, 2017 I filed numerous substantial motions challenging the indictment. The government responded to those motions by dismissing the original indictment. On November 29, 2017 the government obtained a superseding indictment. I amended the motions to reflect the superseding indictment and re-filed all of them. On April 11, 2018 the court held a hearing and granted Mr. Bowman's motion to dismiss the only felony count against him.
6. On December 22, 2018 United States government announced it was shutting down. On December 27, 2018 I received a letter from the administrative office of the federal judiciary explaining that there would be no more CJA payments to attorneys retroactive to December 24. I have not received any compensation related to a CJA case since December 18, 2018. Some of the unpaid vouchers go back to September 2018.
7. Because the duration of the shutdown was uncertain, I stopped working on CJA cases like Mr. Bowman's and refocused my efforts on retained cases. For this reason, trial preparations I normally would have undertaken relative to Mr. Bowman's trial in December and January did not occur.

8. As the Court knows, when billing in a CJA case exceeds a certain amount it is necessary for the case to be budgeted. Until that budget has been processed and approved by the federal defender's office, this Court, and the Ninth Circuit I am not assured of being paid a single dollar in my representation of Mr. Bowman. This worries Mr. Bowman a great deal. I have provided a proposed budget to the CJA office but it is not yet been approved. My limited experience with budgets under the CJA suggests that the process takes about two months at a minimum.
9. Last fall I requested the government provide me with all correspondence between the IRS and Mr. Bowman during the time frame of the indictment. Because the individuals responsible for obtaining those documents were furloughed, the government has been unable to provide the complete IRS correspondence file relating to contacts with Mr. Bowman.
10. The government has yet to provide me a witness list. Mr. Bowman has a more than 20 year history of contacts with civilian IRS employees. His file reflects dozens and dozens of hours by civilian IRS employees generating substitute returns for him which are crucial to his defense. My limited trial preparations indicate that those individuals will need to be called as witnesses to discuss how they obtained the information supporting the substitute returns not just for the 2012 tax year but for all of the years going back to 2000. Those people are not federal criminal agents. The time requested will allow me to coordinate with the government an orderly

process for obtaining the necessary testimony from civilian employees of the IRS who have been furloughed during the shutdown and face numerous exigencies trying to catch up during tax time.

11. As should be evident to the Court from the pleadings I have filed in this case, developing a relationship of trust with Mr. Bowman as a lawyer paid by the Court and the government was no easy task. When the government shutdown, I explained to him that it was necessary for me to shift my efforts to private clients where I would be assured of payment. He absolutely respected this but he also demanded that I make sure that there is sufficient time to prepare for his trial. He was therefore willing to waive his speedy trial rights because of these circumstances consistent with the request for continuance in this motion.

12. In the 17 years between when Mr. Bowman stopped paying taxes and this indictment, there is no evidence the United States ever civilly collected a penny from Mr. Bowman. It is hard to see how what little might be left of the public's interest in this trial is prejudiced by this additional delay.

13. The government concurs in this request for continuance.

Respectfully submitted under penalty of perjury on January 30, 2019.

s/Matthew Schindler

Matthew A. Schindler, OSB#964190
Attorney for Michael Bowman